

Kristina Lawson JD, Chair
Panel B

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8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2014-006184

13 DAWIT MAMO, M.D.

OAH No. 2017090307

14 16070 Tuscola Road, Suite 101
Apple Valley, California 92307

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Physician's and Surgeon's Certificate A 54482,

16 Respondent.

17
18 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
22 of California (Board). She brought this action solely in her official capacity and is represented in
23 this matter by Xavier Becerra, Attorney General of the State of California, by Vladimir
24 Shalkevich, Deputy Attorney General.

25 2. Respondent Dawit Mamo, M.D. (Respondent) is represented in this proceeding by
26 attorney Raymond J. McMahon, whose address is 5440 Trabuco Road, Irvine, California 92620.

27 3. On August 9, 1995, the Board issued Physician's and Surgeon's Certificate No. A
28 54482 to Dawit Mamo, M.D. (Respondent). That license was in full force and effect at all times

1 relevant to the charges brought in Accusation No. 800-2014-006184, and will expire on February
2 28, 2019, unless renewed.

3 JURISDICTION

4 4. Accusation No. 800-2014-006184 was filed before the Board, and is currently
5 pending against Respondent. The Accusation and all other statutorily required documents were
6 properly served on Respondent on May 22, 2017. Respondent timely filed his Notice of Defense
7 contesting the Accusation.

8 5. A copy of Accusation No. 800-2014-006184 is attached as Exhibit A and is
9 incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 800-2014-006184. Respondent has also carefully read,
13 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
14 Disciplinary Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
17 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
18 to the issuance of subpoenas to compel the attendance of witnesses and the production of
19 documents; the right to reconsideration and court review of an adverse decision; and all other
20 rights accorded by the California Administrative Procedure Act and other applicable laws.

21 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 CULPABILITY

24 9. Respondent understands and agrees that the charges and allegations in Accusation
25 No. 800-2014-006184, if proven at a hearing, constitute cause for imposing discipline upon his
26 Physician's and Surgeon's Certificate.

27 10. For the purpose of resolving the Accusation without the expense and uncertainty of
28 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual

1 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
2 those charges.

3 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
4 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
5 Disciplinary Order below.

6 CONTINGENCY

7 12. This stipulation shall be subject to approval by the Medical Board of California.
8 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
9 Board of California may communicate directly with the Board regarding this stipulation and
10 settlement, without notice to or participation by Respondent or his counsel. By signing the
11 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
12 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
13 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
14 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
15 action between the parties, and the Board shall not be disqualified from further action by having
16 considered this matter.

17 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
18 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
19 signatures thereto, shall have the same force and effect as the originals.

20 14. In consideration of the foregoing admissions and stipulations, the parties agree that
21 the Board may, without further notice or formal proceeding, issue and enter the following
22 Disciplinary Order:

23 DISCIPLINARY ORDER

24 IT IS HEREBY ORDERED THAT Physician's and Surgeon's Certificate No. A 54482
25 issued to Respondent Dawit Mamo, M.D. is revoked. However, the revocation is stayed and
26 Respondent is placed on probation for thirty-five (35) months, on the following terms and
27 conditions.

28 1. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective

1 date of this Decision, Respondent shall enroll in a course in prescribing practices approved in
2 advance by the Board or its designee. Respondent shall provide the approved course provider
3 with any information and documents that the approved course provider may deem pertinent.
4 Respondent shall participate in and successfully complete the classroom component of the course
5 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
6 complete any other component of the course within one (1) year of enrollment. The prescribing
7 practices course shall be at Respondent's expense and shall be in addition to the Continuing
8 Medical Education (CME) requirements for renewal of licensure.

9 A prescribing practices course taken after the acts that gave rise to the charges in the
10 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
11 or its designee, be accepted towards the fulfillment of this condition if the course would have
12 been approved by the Board or its designee had the course been taken after the effective date of
13 this Decision.

14 Respondent shall submit a certification of successful completion to the Board or its
15 designee not later than 15 calendar days after successfully completing the course, or not later than
16 15 calendar days after the effective date of the Decision, whichever is later.

17 2. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
18 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
19 advance by the Board or its designee. Respondent shall provide the approved course provider
20 with any information and documents that the approved course provider may deem pertinent.
21 Respondent shall participate in and successfully complete the classroom component of the course
22 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
23 complete any other component of the course within one (1) year of enrollment. The medical
24 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
25 Medical Education (CME) requirements for renewal of licensure.

26 A medical record keeping course taken after the acts that gave rise to the charges in the
27 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
28 or its designee, be accepted towards the fulfillment of this condition if the course would have

1 been approved by the Board or its designee had the course been taken after the effective date of
2 this Decision.

3 Respondent shall submit a certification of successful completion to the Board or its
4 designee not later than 15 calendar days after successfully completing the course, or not later than
5 15 calendar days after the effective date of the Decision, whichever is later.

6 3. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
7 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
8 Chief Executive Officer at every hospital where privileges or membership are extended to
9 Respondent, at any other facility where Respondent engages in the practice of medicine,
10 including all physician and locum tenens registries or other similar agencies, and to the Chief
11 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
12 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
13 calendar days.

14 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

15 4. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
16 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
17 advanced practice nurses.

18 5. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
19 governing the practice of medicine in California and remain in full compliance with any court
20 ordered criminal probation, payments, and other orders.

21 6. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
22 under penalty of perjury on forms provided by the Board, stating whether there has been
23 compliance with all the conditions of probation.

24 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
25 of the preceding quarter.

26 7. GENERAL PROBATION REQUIREMENTS.

27 Compliance with Probation Unit

28 Respondent shall comply with the Board's probation unit.

1 Address Changes

2 Respondent shall, at all times, keep the Board informed of Respondent's business and
3 residence addresses, email address (if available), and telephone number. Changes of such
4 addresses shall be immediately communicated in writing to the Board or its designee. Under no
5 circumstances shall a post office box serve as an address of record, except as allowed by Business
6 and Professions Code section 2021(b).

7 Place of Practice

8 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
9 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
10 facility. Respondent may visit a hospice patient at the patient's residence to assess for continued
11 participation in hospice without violating this condition, if the records pertaining to any such visit
12 are maintained at the Respondent's office.

13 License Renewal

14 Respondent shall maintain a current and renewed California physician's and surgeon's
15 license.

16 Travel or Residence Outside California

17 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
18 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
19 (30) calendar days.

20 In the event Respondent should leave the State of California to reside or to practice,
21 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
22 departure and return.

23 8. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
24 available in person upon request for interviews either at Respondent's place of business or at the
25 probation unit office, with or without prior notice throughout the term of probation.

26 9. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
27 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
28 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is

1 defined as any period of time Respondent is not practicing medicine as defined in Business and
2 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
3 patient care, clinical activity or teaching, or other activity as approved by the Board. If
4 Respondent resides in California and is considered to be in non-practice, Respondent shall
5 comply with all terms and conditions of probation. All time spent in an intensive training
6 program which has been approved by the Board or its designee shall not be considered non-
7 practice and does not relieve Respondent from complying with all the terms and conditions of
8 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
9 on probation with the medical licensing authority of that state or jurisdiction shall not be
10 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
11 period of non-practice.

12 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
13 months, Respondent shall successfully complete the Federation of State Medical Boards' Special
14 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
15 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
16 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

17 Respondent's period of non-practice while on probation shall not exceed two (2) years.

18 Periods of non-practice will not apply to the reduction of the probationary term.

19 Periods of non-practice for a Respondent residing outside of California will relieve
20 Respondent of the responsibility to comply with the probationary terms and conditions with the
21 exception of this condition and the following terms and conditions of probation: Obey All Laws;
22 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
23 Controlled Substances; and Biological Fluid Testing.

24 10. COMPLETION OF PROBATION. Respondent shall comply with all financial
25 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
26 completion of probation. Upon successful completion of probation, Respondent's certificate shall
27 be fully restored.

28 11. VIOLATION OF PROBATION. Failure to fully comply with any term or condition

1 of probation is a violation of probation. If Respondent violates probation in any respect, the
2 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
3 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
4 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
5 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
6 the matter is final.

7 12. LICENSE SURRENDER. Following the effective date of this Decision, if
8 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
9 the terms and conditions of probation, Respondent may request to surrender his or her license.
10 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
11 determining whether or not to grant the request, or to take any other action deemed appropriate
12 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
13 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
14 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
15 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
16 application shall be treated as a petition for reinstatement of a revoked certificate.

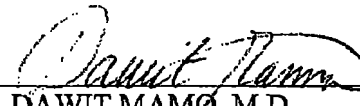
17 13. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
18 with probation monitoring each and every year of probation, as designated by the Board, which
19 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
20 California and delivered to the Board or its designee no later than January 31 of each calendar
21 year.

22 ACCEPTANCE

23 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
24 discussed it with my attorney, Raymond J. McMahon. I understand the stipulation and the effect
25 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement
26 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
27 Decision and Order of the Medical Board of California.

1 DATED:

2/13/18


DAWIT MAMO, M.D.
Respondent

3 I have read and fully discussed with Respondent Dawit Mamo, M.D. the terms and
4 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
5 I approve its form and content.

6 DATED:

2/13/18

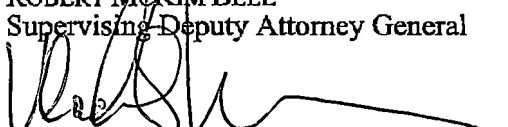

RAYMOND J. McMAHON
Attorney for Respondent7
8
9 ENDORSEMENT

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
11 submitted for consideration by the Medical Board of California.

12 Dated: 2/13/18

13 Respectfully submitted,

14 XAVIER BECERRA
Attorney General of California
15 ROBERT McKIM BELL
Supervising Deputy Attorney General


16 VLADIMIR SHALKEVICH
17 Deputy Attorney General
18 Attorneys for Complainant
19

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Exhibit A

Accusation No. 800-2014-006184

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2 ROBERT MCKIM BELL
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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO MAY 22, 2017
BY: *[Signature]* ANALYST

8 BEFORE THE
9 MEDICAL BOARD OF CALIFORNIA
10 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 800-2014-006184.

12 DAWIT MAMO, M.D.

ACCUSATION

13 16070 Tuscola Road, Suite 101
14 Apple Valley, California 92307

15 Physician's and Surgeon's Certificate A 54482,
16 Respondent.

17 Complainant alleges:

18 PARTIES

- 19 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Director of the Medical Board of California (Board).
21 2. On August 9, 1995, the Board issued Physician's and Surgeon's Certificate Number A
22 54482 to Dawit Mamo, M.D. (Respondent). That license was in full force and effect at all times
23 relevant to the charges brought herein and will expire on February 28, 2019, unless renewed.

24 JURISDICTION

- 25 3. This Accusation is brought before the Board under the authority of the following
26 laws. All section references are to the Business and Professions Code (Code) unless otherwise
27 indicated.
28 4. Section 2227 of the Code states:

1 “(a) A licensee whose matter has been heard by an administrative law judge of the Medical
2 Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default
3 has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary
4 action with the board, may, in accordance with the provisions of this chapter:

5 “(1) Have his or her license revoked upon order of the board.

6 “(2) Have his or her right to practice suspended for a period not to exceed one year upon
7 order of the board.

8 “(3) Be placed on probation and be required to pay the costs of probation monitoring upon
9 order of the board.

10 “(4) Be publicly reprimanded by the board. The public reprimand may include a
11 requirement that the licensee complete relevant educational courses approved by the board.

12 “(5) Have any other action taken in relation to discipline as part of an order of probation, as
13 the board or an administrative law judge may deem proper.

14 “(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical
15 review or advisory conferences, professional competency examinations, continuing education
16 activities, and cost reimbursement associated therewith that are agreed to with the board and
17 successfully completed by the licensee, or other matters made confidential or privileged by
18 existing law, is deemed public, and shall be made available to the public by the board pursuant to
19 Section 803.1.”

20 5. Section 2234 of the Code, states:

21 “The board shall take action against any licensee who is charged with unprofessional
22 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
23 limited to, the following:

24 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
25 violation of, or conspiring to violate any provision of this chapter.

26 “(b) Gross negligence.
27
28

1 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
2 omissions. An initial negligent act or omission followed by a separate and distinct departure from
3 the applicable standard of care shall constitute repeated negligent acts.

4 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
5 for that negligent diagnosis of the patient shall constitute a single negligent act.

6 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
7 constitutes the negligent act described in paragraph (1), including, but not limited to, a
8 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
9 applicable standard of care, each departure constitutes a separate and distinct breach of the
10 standard of care.

11 “(d) Incompetence.

12 “(e) The commission of any act involving dishonesty or corruption which is substantially
13 related to the qualifications, functions, or duties of a physician and surgeon.

14 “(f) Any action or conduct which would have warranted the denial of a certificate.

15 “(g) The practice of medicine from this state into another state or country without meeting
16 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
17 apply to this subdivision. This subdivision shall become operative upon the implementation of the
18 proposed registration program described in Section 2052.5.

19 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
20 participate in an interview by the board. This subdivision shall only apply to a certificate holder
21 who is the subject of an investigation by the board.”

22 6. Section 2242 of the Code, states:

23 “(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022
24 without an appropriate prior examination and a medical indication, constitutes unprofessional
25 conduct.

26 “(b) No licensee shall be found to have committed unprofessional conduct within the
27 meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of
28 the following applies:

1 “(1) The licensee was a designated physician and surgeon or podiatrist serving in the
2 absence of the patient’s physician and surgeon or podiatrist, as the case may be, and if the drugs
3 were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return
4 of his or her practitioner, but in any case no longer than 72 hours.

5 “(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed
6 vocational nurse in an inpatient facility, and if both of the following conditions exist:

7 “(A) The practitioner had consulted with the registered nurse or licensed vocational nurse
8 who had reviewed the patient’s records.

9 “(B) The practitioner was designated as the practitioner to serve in the absence of the
10 patient’s physician and surgeon or podiatrist, as the case may be.

11 “(3) The licensee was a designated practitioner serving in the absence of the patient’s
12 physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized
13 the patient’s records and ordered the renewal of a medically indicated prescription for an amount
14 not exceeding the original prescription in strength or amount or for more than one refill.

15 “(4) The licensee was acting in accordance with Section 120582 of the Health and Safety
16 Code.”

17 7. Section 2266 of the Code states: “The failure of a physician and surgeon to maintain
18 adequate and accurate records relating to the provision of services to their patients constitutes
19 unprofessional conduct.”

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Gross Negligence)**

22 8. Respondent Dawit Mamo, M.D. is subject to disciplinary action under section 2234,
23 subdivision (b) in that he committed gross negligence in his care and treatment of patient B.S.¹
24 The circumstances are as follows:

25 ///

26 _____
27 ¹ The patient’s initials are used to protect their privacy. The identity of the patients is
28 known to the Respondent and will be further provided in response to an appropriate Request for
Discovery.

1 9. Patient B.S. is a 53-year-old female who began treatment with Respondent on or
2 about June 8, 2004. At that time, B.S.'s medications included Bextra, Ultram, Darvocet and Paxil.
3 Respondent's initial chart note does not include a comprehensive history. B.S. was diagnosed by
4 Respondent with elevated blood pressure and right shoulder pain. He prescribed to her Vicodin
5 ES #90 and Soma 350 mg #60.

6 10. B.S. was then seen by Respondent on or about August 19, 2004 and was diagnosed
7 with anxiety and hypertension. Respondent prescribed Xanax 0.5 mg #60 to her. B.S. was seen
8 several times in 2005 and was prescribed with Lortab 10 mg/500 mg and Xanax 0.5 mg.

9 11. On or about June 29, 2007 Respondent diagnosed B.S. with fibromyalgia,
10 Degenerative Disc Disease (DDD) and hypertension. He prescribed Methadone 10 mg every 4
11 hours #180, Lortab 10 mg/500 mg #120 and Xanax 0.5 mg #60 to B.S. on that date. Respondent
12 did not document his reasoning or an explanation for the addition of Methadone to the patient's
13 treatment regimen. Respondent's chart entries in regard to history or physical examination of B.S.
14 are not adequate, and do not demonstrate a good faith examination or indication for B.S.'s
15 treatment regimen. The patient continued to receive refills on Methadone, Xanax, and Lortab in
16 2007, 2008 and 2009.

17 12. On or about March 5, 2009, Respondent noted that the patient was seen in an
18 emergency room and was diagnosed with cellulitis, and documented that the patient felt better
19 after taking Keflex. He noted an edema on the patient's right leg. Respondent's March 5, 2009
20 note chart note indicates that he replaced the patient's prior prescription of Xanax with Ativan,
21 though no examination or explanation for the change was documented. Respondent refilled
22 Methadone, Lortab and Ativan on or about April 3, 2009, after noting that the patient was "having
23 daytime sleeping."

24 13. On or about April 24, 2009, the patient reported that she had completed a sleep study.
25 She was diagnosed with sleep apnea and CPAP was ordered for her. On or about May 29, 2009,
26 the patient complained that she was "not sleeping well at night but easily falls asleep during day
27 time." The patient complained of being depressed. In addition to Ativan, Methadone, Lortab the
28 medications she was already taking, Respondent prescribed Ritalin SR 20 mg every 8 hours.

1 14. On January 8, 2010, the patient was seen for follow up and Respondent prescribed
2 OxyContin 20 mg, in addition to her other medication. Respondent did not document an adequate
3 history and/or physical examination and did not document why OxyContin was added to B.S.'s
4 medication regimen.

5 15. The patient continued to receive refills of above-referenced medications consistently,
6 approximately once every three months, between July 22, 2011, and until approximately December
7 4, 2015. During that period, B.S. obtained regular refills for Ritalin 20 mg #90, Methadone 10
8 mg #180, Hydrocodone-Acetaminophen 10 mg-650 mg #150 and OxyContin 30 mg #60.
9 Respondent's last progress note, on or about December 4, 2015 indicated that the patient was kept
10 on Methadone, Norco, Ritalin and MS Contin for her chronic pain.

11 16. The standard of care for pain management requires documentation and assessment
12 of the pain, physical and psychological function; a substance abuse history; history of prior pain
13 treatment; and documentation of the presence of a recognized medical indication for the use of
14 controlled substances. The physician should periodically review the course of pain treatment of
15 the patient and monitor patient's treatment progress. Respondent did not perform and/or did not
16 adequately document any of these assessments, or the patients' response to the medications. No
17 plan of treatment was established and/or documented.

18 17. Respondent's handwritten notes are insufficient and lack critical data. Respondent's
19 medical records do not contain adequate history or physical examination. There is no
20 documentation of pain assessment, patient's response to opioids or functional and psychological
21 assessment. Respondent prescribed Methadone 10 mg every 4 hours on a monthly basis to B.S. In
22 his interview with the Board's investigators, Respondent indicated that this was recommended by
23 the pain management specialist but this patient's medical records contain no record of
24 consultation or report from the specialist. Respondent's prescribing of Methadone to B.S., was
25 excessive and unsafe. Respondent's prescribing of a combination of two long-acting opioids, one
26 short acting opioid and a benzodiazepine in patient with sleep apnea was excessive and unsafe.

27 18. Respondent prescribed Ritalin to B.S. for treatment of excessive daytime sleepiness.
28 Ritalin does not have an approved indication for the treatment of obstructive sleep apnea and its

1 use in hypertensive patients requires caution. Ritalin is a schedule II substance and has a high
2 potential for abuse and may cause psychological dependence. Respondent did not monitor and/or
3 perform and/or adequately document an evaluation of the patient's psychological status while she
4 was being prescribed Ritalin by him.

5 19. Respondent's manner of prescribing Ritalin, Methadone, Hydrocodone-
6 Acetaminophen, and OxyContin to B.S. as alleged in paragraphs 8 through 17 herein constitutes
7 an extreme departure from the standard of care.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Repeated Negligent Acts)**

10 20. Respondent Dawit Mamo, M.D. is subject to disciplinary action under section 2234,
11 subdivision (c) in that Respondent committed repeated negligent acts in the care and treatment of
12 five patients, B.S., T.A., R.B., P.D., and D.H. The circumstances are as follows:

13 **Patient B.S.**

14 21. The allegations of paragraphs 9 through 18 are incorporated herein by reference.

15 22. Respondent's manner of prescribing Ritalin, Methadone, Hydrocodone-
16 Acetaminophen, and OxyContin to B.S. as alleged in paragraphs 9 through 18 herein constitutes a
17 departure from the standard of care.

18 **Patient T.A.**

19 23. T.A. was a 55-year-old female who began to see Respondent in February of 2008.
20 Respondent's initial history and physical lacks history of present illness, physical exam,
21 assessment or plan. On or about March 17, 2008 Respondent recorded a diagnosis of DDD,
22 migraine headache and hypertension. Vicodin ES #120 and Topamax 25 mg were prescribed. The
23 patient was seen for follow-up on or about May 8, 2008. Respondent did not record in the history
24 of present illness the patient's response to previously prescribed Vicodin ES. The patient was
25 prescribed Vicodin ES #120 again with two additional refills on that date.

26 24. On or about May 21, 2009, Respondent diagnosed T.A. with anxiety disorder and
27 prescribed Valium 5 mg and Vicodin ES to her. Respondent did not record any reason,
28 examination and/or history to explain how this diagnosis was established. On or about January 4,

1 2010, Respondent documented that T.A. was using alcohol but obtained and/or recorded no
2 details, amount or frequency of alcohol use. Respondent proceeded to refill Valium and Vicodin
3 ES despite the fact that the patient was using alcohol.

4 25. T.A. was seen by Respondent periodically from approximately October 25, 2010 until
5 September 25, 2015 and was treated for DDD, L-spine, hypertension, anxiety and right shoulder
6 pain. Respondent's medical records do not contain adequate history or physical examination to
7 establish any of these diagnoses, other than patient complaints of pain or tenderness, Respondent
8 did not obtain and/or did not document the basis for these diagnoses. From approximately
9 October 25, 2010 until approximately July 3, 2014, T.A. received regular refills for Soma 350 mg,
10 Xanax 1 mg and Norco (Hydrocodone-Acetaminophen) 10 mg-325 mg. T.A. was concurrently
11 receiving refills for Hydrocodone from multiple providers and obtaining them from multiple
12 pharmacies. On several occasions, including, but not limited to, from December, 2011 and
13 continuing through November, 2012, Respondent prescribed both Vicodin ES and Norco 10/325
14 to T.A. at the same time and refilled a month's supply of Vicodin ES and Norco 10/325 mg
15 within the same month. The patient went to two separate pharmacies to obtain these medications.

16 26. Pain management guidelines requires documentation and assessment of the pain,
17 physical and psychological function; a substance abuse history; history of prior pain treatment;
18 and documentation of the presence of a recognized medical indication for the use of a controlled
19 substance. The physician should periodically review the course of pain treatment of the patient
20 and monitor patient's treatment progress. Respondent's medical records for patient T.A. are
21 incomplete and lack critical information. Progress notes do not indicate why treatment with SSRI
22 or SNRI was not considered for anxiety disorder. Respondent did not obtain and/or document
23 pain assessment or patient's response to Hydrocodone. Respondent documented in his note on
24 January 3, 2010 that the patient drinks alcoholic beverages, did not document any details about
25 this patient's alcohol consumption, yet proceeded to refill opioids and benzodiazepines.
26 Respondent did not consider and/or document his reasons for authorizing refills for Vicodin ES
27 and Norco 10/325 mg within the same month. Respondent did not consider and/or document any
28

1 reason for not considering the use of a long acting opioid to avoid exposing T.A. to excessive
2 amount of Acetaminophen.

3 27. Respondent's prescribing benzodiazepine and opioids to T.A., a patient who was
4 known to drink alcoholic beverages, was a departure from the standard of care.

5 28. Respondent's manner of prescribing Vicodin ES, Norco 10/325 and Xanax to T.A. as
6 alleged in paragraphs 23 through 26 herein constitutes a departure from the standard of care

7 **Patient R.B.**

8 29. Patient R.B. is a 60-year-old male who started to see Respondent in or about August
9 3, 2004. Respondent never obtained and/or never appropriately documented R.B.'s history and
10 physical examination, including history of the patients' alcohol intake. Respondent's records
11 contain what appears to be an incomplete medical intake history and physical note, which is
12 undated, only partially filled out, and unsigned. Respondent's progress note dated August 3, 2004
13 lists chronic pancreatitis and chronic low back pain as R.B.'s active diagnosis. On that date,
14 Respondent prescribed to R.B. Vicodin ES (Hydrocodone-Acetaminophen 7.5 mg/750 mg) every
15 8 hours #100. During this period, the patient was also treated periodically with Lomotil for
16 chronic diarrhea, Soma 350 mg for back pain and Ambien 10 mg for insomnia.

17 30. The patient was seen about once every 3 months from approximately August 3, 2004
18 until approximately March 3, 2015 and was provided with Vicodin ES #100 per month.
19 Respondent's records for R.B. contain no information regarding this patient's response to Vicodin
20 ES.

21 31. From approximately August 5, 2011 to approximately July 19, 2014, R.B. received
22 refills for Hydrocodone-Acetaminophen regularly along with periodic refills for Soma 350 mg
23 and Lomotil. During the same period, Respondent's medical records for R.B. contained no
24 assessment of pain, physical and psychological function, substance abuse history, nor history of
25 prior pain treatment. Respondent's records for period between August 5, 2011 and July 19, 2014,
26 contain occasional notes of patient's complaints of pain and findings of tenderness. However,
27 during this period, Respondent did not document an adequate history and/or physical
28 examination, or the presence of a recognized medical indication for the use of a controlled

1 substances to treat R.B.'s chronic pain. Respondent continued to refill Hydrocodone-
2 Acetaminophen regularly along with periodic refills for Soma 350 mg and Lomotil for R.B. for
3 more than three years without a plan of treatment, without a review of the course of pain
4 treatment, or monitoring of R.B.'s progress.

5 32. Pain management guidelines require documentation and assessment of the pain,
6 physical and psychological function; a substance abuse history; history of prior pain treatment;
7 and documentation of the presence of a recognized medical indication for the use of a controlled
8 substance. The physician should periodically review the course of pain treatment of the patient
9 and monitor patient's treatment progress.

10 33. Respondent's medical records regarding R.B. are incomplete and disorganized. The
11 notes fail to document pain assessment, history of previous pain treatment, appropriateness of
12 continued use of opioid treatment and consideration for non-opioid therapies. In a patient with
13 chronic pancreatitis, it is critical to obtain and document history of alcohol use if narcotics are
14 being prescribed. Lomotil (Diphenoxylate hydrochloride/Atropine sulfate) is classified as a
15 controlled substance by federal regulation. Diphenoxylate hydrochloride is chemically related to
16 the narcotic analgesic Demerol (Meperidine). It can potentially cause CNS depression if taken
17 with other CNS depressant drugs. There is no documentation in the records to indicate if
18 Loperamide was tried prior to the regular use of Lomotil. Soma (Carisoprodol) is a Schedule IV
19 controlled substance. It can be habit forming, especially if taken with other habit forming drugs
20 such as Hydrocodone. Respondent's records contain no documentation to indicate why other
21 muscle relaxants such as Cyclobenzaprine or Methocarbamol were not prescribed.

22 34. Respondent's manner of prescribing Hydrocodone-Acetaminophen, Soma and
23 Lomotil to R.B. as alleged in paragraphs 29 through 33 herein constitutes a departure from the
24 standard of care.

25 35. Respondent's record keeping as alleged in paragraphs 29 through 33 herein
26 constitutes a departure from the standard of care.

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1 **Patient P.D.**

2 36. Patient P.D. is a 73-year-old female who initially saw Respondent on or about
3 November 9, 2005. Respondent never obtained and/or never appropriately documented P.D.'s
4 history and physical examination, including history of the patients' alcohol intake. Respondent's
5 records contain what appears to be an incomplete medical intake history and physical note, which
6 is undated, only partially filled out, and unsigned. P.D. was noted to be on Lorazepam and
7 Ambien. Respondent's Progress note dated November 9, 2005 lists diagnosis of hypertension,
8 diabetes, hyperlipidemia and degenerative joint disease (DJD). Respondent's progress note for
9 P.D. on or about November 22, 2006 indicates that the patient was allergic to Vicodin and was
10 instead prescribed Ultram 50 mg #100 for low back pain. Progress note dated December 22,
11 2008, also lists Vicodin for allergies but Respondent still prescribed Vicodin ES #90 along with
12 Phenergan/Codeine for DJD and cough on that date.

13 37. P.D. continued to see Respondent regularly until approximately May 3, 2016. From
14 approximately July 26, 2011 until approximately July 17, 2014, the patient received regular refills
15 of Lorazepam and Hydrocodone with Acetaminophen 7.5 mg-750 mg along with periodic refills
16 of Ambien 10 mg. Respondent did not perform and did not adequately document the reasons why
17 he prescribed Lorazepam to P.D. During this period Respondent did not document an adequate
18 history and/or physical examination, or the presence of a recognized medical indication for the
19 use of a controlled substances to treat P.D.'s chronic pain. During this period Respondent did not
20 consider and/or document a periodic review of the course of treatment of P.D.'s chronic pain.
21 Respondent did not formulate and/or document a treatment plan for P.D.

22 38. Pain management guidelines require documentation and assessment of the pain,
23 physical and psychological function; a substance abuse history; history of prior pain treatment;
24 and documentation of the presence of a recognized medical indication for the use of a controlled
25 substance. The physician should periodically review the course of pain treatment of the patient
26 and monitor patient's treatment progress.

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1 39. Respondent's office notes are inadequate. Documentation of subjective data and
2 treatment plan are insufficient. Initial history and physical lacks alcohol or substance abuse
3 history. Vicodin was listed in drug allergies but Respondent proceeded to prescribe Vicodin to
4 P.D. Progress notes lack indication for the use of Lorazepam. There is no documentation in the
5 records to indicate whether treatments with an SSRI or SNRI for anxiety disorder were
6 considered. The notes also fail to document pain assessment, patient's response to Hydrocodone
7 and consideration for non-opioid treatment options such as physical therapy.

8 40. Respondent's manner of prescribing of Lorazepam, Hydrocodone with
9 Acetaminophen and Ambien as described in paragraphs 36 through 39 herein constitutes a
10 departure from the standard of care.

11 41. Respondent's record keeping as alleged in paragraphs 36 through 39 herein
12 constitutes a departure from the standard of care.

13 **Patient D.H.**

14 42. Patient D.H. is 45-year-old male who initially saw Respondent on or about April 25,
15 2011. Respondent documented a physical examination on that date, and noted that the patient
16 came in for lumbar pain and cough. Respondent did not review and/or record an assessment of
17 D.H.'s pain, physical and psychological function or a substance abuse history. Respondent then
18 diagnosed D.H. with lumbar back pain and cough. Respondent's treatment plan indicates review
19 of records and laboratory testing.

20 43. D.H. was seen by Respondent for follow-up on or about May 16, 2011. He was
21 diagnosed with cough and lumbar pain again. Soma 350 mg #90 and Phenergan/Codeine were
22 prescribed. Respondent did not consider and/or document a treatment plan for D.H. Respondent
23 saw D.H. again on or about August 14, 2011. He was diagnosed with right knee pain, lumbar pain
24 and cough. Soma, Motrin, Phenergan with Codeine and Vicodin ES #120 were prescribed.

25 44. The records indicate that the patient was seen periodically between August 14, 2011
26 and November 15, 2015. Between the dates of approximately September 4, 2011 and July 3,
27 2014, Respondent provided regular refills of Vicodin ES and Ambien (zolpidem) 10 mg.

45. Pain management guidelines requires documentation and assessment of the pain, physical and psychological function; a substance abuse history; history of prior pain treatment; and documentation of the presence of a recognized medical indication for the use of a controlled substance. The physician should periodically review the course of pain treatment of the patient and monitor patient's treatment progress.

46. Respondent's office notes are insufficient. The notes fail to document pain assessment, patient's response to Hydrocodone and consideration for non- opioid treatment options for back or knee pain. Respondent never documented the rationale for prescribing Codeine for cough repeatedly. D.H. was repeatedly prescribed Ambien in 2011 and 2012 but Respondent never did perform and/or document an appropriate diagnosis or rationale for Ambien prescription. Long term use of Zolpidem is associated with dependency and central nervous system (CNS) - related adverse effects. It should be used with caution if prescribed with other CNS depressants such as Hydrocodone.

47. Respondent's manner of prescribing of hydrocodone and Ambien in the manner described in paragraphs 42 through 46 herein constitutes a departure from the standard of care.

48. Respondent's record keeping as alleged in paragraphs 42 through 46 herein constitutes a departure from the standard of care.

THIRD CAUSE FOR DISCIPLINE

(Prescribing Without Indication)

49. Respondent Dawit Mamo, M.D. is subject to disciplinary action under section 2242 in that he prescribed dangerous drugs without performing and/or documenting an appropriate prior examination and a medical indication, to five patients, B.S., T.A., R.B., P.D., and D.H. The circumstances are as follows:

50. Allegations of paragraphs 9 through 18, 23 through 26, 29 through 33, 36 through 39, and 42 through 46 are incorporated herein by reference.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Inadequate Record Keeping)**

3 51. Respondent Dawit Mamo, M.D. is subject to disciplinary action under section 2266 in
4 that he failed to maintain complete and/or adequate medical records in his care and treatment of
5 five patients, B.S., T.A., R.B., P.D., and D.H. The circumstances are as follows:

6 52. Allegations of paragraphs 9 through 18, 23 through 26, 29 through 33, 36 through 39,
7 and 42 through 46 are incorporated herein by reference.

8 **PRAYER**

9 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Medical Board of California issue a decision:

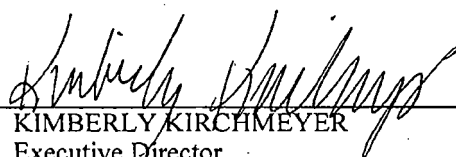
11 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 54482,
12 issued to Dawit Mamo, M.D.;

13 2. Revoking, suspending or denying approval of his authority to supervise physician
14 assistants, pursuant to section 3527 of the Code, and advanced practice nurses;

15 3. If placed on probation, ordering him to pay the Board the costs of probation
16 monitoring; and

17 4. Taking such other and further action as deemed necessary and proper.

18
19 DATED: May 22, 2017



KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

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